

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of:

AMERICAN INTERNATIONAL
INSURANCE COMPANY,
AIU INSURANCE COMPANY, and
AMERICAN HOME ASSURANCE
COMPANY,

Authorized Insurers.

No. D 04 - 243

CONSENT ORDER
IMPOSING A FINE

FINDINGS OF FACT

1. American International Insurance Company ("AIIC"), AIU Insurance Company ("AIU"), and American Home Assurance Company ("AHAC") are insurers affiliated with the American International Group ("AIG") and are authorized to engage in the business of insurance in Washington by the Washington State Office of Insurance Commissioner ("OIC") pursuant to certificates of authority issued by the OIC.
2. RCW 48.19.040 requires insurers to file before using every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule, and every modification of such that they propose. Specific legislation relating to insurance scoring was also enacted in 2002 and signed into law on April 4, 2002. This legislation is codified at RCW 48.18.545 and RCW 48.19.035 and requires that all rating plans using an insurance scoring model to determine personal insurance rates or premiums be filed and approved to be effective by June 30, 2003, and that insurers taking adverse action against consumers based in whole or in part on credit history in insurance scores provide written explanatory notice to adversely affected consumers for all personal insurance policies issued or renewed after January 1, 2003. The OIC also promulgated regulations implementing this legislation contained in Chapter 284-24A WAC that became effective on October 7, 2002. On January 16, 2003, the OIC issued Technical Assistance Advisory T03-01 that repeated the June 30, 2003, deadline for approval of personal insurance rating plans using an insurance scoring model and outlined what was expected of insurers for timely compliance with the insurance scoring legislative requirements.

3. In January 2003, OIC received a homeowners rate filing from AIIC. Correspondence revealed that AIIC had been utilizing a formula to assign new business to rating tiers that included a "Financial Stability Score", a name for the result of a credit score that had been used by AIIC for new homeowners business since December 15, 2000, as a part of AIIC's rating process. In January 2003, AIIC filed this use as a part of its rating plan but later revised its rate filing to delete this aspect of the rating plan.
4. AIIC terminated its use of credit scoring to tier homeowners policies effective July 17, 2003.
5. Credit had been a part of the filed and approved rating plans for personal auto for AIU and AHAC since February 1, 1998. In response to the change in the law, these Companies made a filing on June 17, 2003 that included the use of an AIG developed credit score and the required multivariate analysis. This filing was disapproved by the OIC due to the fact that the insurance scoring model was found to be non-compliant. Therefore, the Companies filed a compliant model on July 18, 2003 and began using it immediately. However, the multivariate analysis was not filed at this time because the analysis was not yet complete.
6. AIU and AHAC used the compliant credit score to tier new auto policies in Washington after July 18, 2003, but the Companies' rate filing was not yet approved because the analysis had not been filed. AIU and AHAC did obtain OIC approval of its entire insurance scoring model rating plan for personal auto policies effective September 7, 2004. This approval included acceptance of the model that was originally filed and was put into use on July 18, 2003.
7. Between December 15, 2000, and July 17, 2003, when AIIC removed the use of credit from its homeowners insurance scoring model, AIIC issued 2,470 new homeowners policies in Washington using the unfiled credit scoring formula. Of these policies, 55 were issued between June 30, 2003, and July 17, 2003. No adverse action notices were sent to these consumers who were adversely affected by AIIC's use of their credit history.
8. Between June 30, 2003, and September 7, 2004, AIU issued 151 new auto policies and AHAC issued 68 new auto policies to consumers who were charged higher premiums based upon the Companies' use of their credit history. It is the Companies' practice to send adverse action notices to consumers who were adversely affected by the Companies' use of their credit history. However, for the time period from November 17, 2003, through April 1, 2004, the report that was used to identify those who were adversely affected was not working due to a system problem and adverse action notices were not sent. AIU renewed 602 such policies and AHAC renewed 390 such policies between June 30, 2003, and September 7, 2004, but these policies were not re-scored at renewal.

CONCLUSIONS OF LAW

1. Pursuant to RCW 48.19.035(6), the rating provisions of the credit scoring legislation apply to all personal insurance policies issued or renewed on or after June 30, 2003.
2. Pursuant to WAC 284-24A-015(2), rates, risk classification plans, rating factors and rating plans that use an insurance scoring model to determine personal insurance rates or premiums were required to be filed and approved for use on or before June 30, 2003.
3. Pursuant to RCW 48.19.040, insurers are required to file before using every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule, and every modification of such that they propose.
4. Pursuant to RCW 48.18.545(2), since January 1, 2003, any insurer taking adverse action against a consumer based in whole or in part on credit history or insurance score has been required to provide written notice to the applicant or insured stating the significant factors of the credit history or insurance score that resulted in the adverse action and advising the consumer of the right to a free copy of the consumer report under the fair credit reporting act.
5. The Companies' use for over two and one-half years of unfiled credit scoring formulae to tier new homeowners policies violated RCW 48.19.040.
6. The Companies' use for 20 days of a non-compliant insurance scoring model and use for 15 months of an unapproved rating plan for personal auto policies violated RCW 48.19.040.
7. By issuing 219 auto policies using rates utilizing an unapproved insurance scoring plan between June 30, 2003 and September 7, 2004, AIU and AHAC violated RCW 48.19.035 and WAC 284-24A-015(2) for each policy issued during this period and for each day during this period.
8. By issuing 55 homeowners policies between June 30, 2003 and July 17, 2003 using rates utilizing an unapproved insurance scoring model, AIIC violated RCW 48.19.035 and WAC 284-24A-015(2) for each policy issued and renewed during this period and for each day during this period.
9. By issuing homeowners policies utilizing insurance scoring models that were not included in their filed rating manuals and rules, the Companies committed multiple violations of RCW 48.19.040 for over 2 ½ years.
10. By failing to send adverse action notices after January 1, 2003 to homeowners consumers who were adversely affected by the Companies' use of the consumers' credit histories, the Companies committed multiple violations of RCW 48.18.545.

11. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

CONSENT TO ORDER

NOW, THEREFORE, the Companies consent to the following in consideration of their desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of the Companies' payment of a fine as set forth below.

1. The Companies consent to entry of the foregoing Findings of Fact and Conclusions of Law and this Order, acknowledge their duty to comply fully with the applicable laws of the State of Washington, and waive further administrative or judicial challenge to the OIC's actions related to the subject matter of this Order.
2. Within thirty days of the entry of the Order, the Companies agree to pay to the OIC a fine in the total amount of \$82,660, which amount is calculated on the basis of \$25,000 for the Companies' use for over 2 ½ years of unfiled rating rules for homeowners policies, \$100 per day for the periods of noncompliance with Washington's insurance scoring legislation and \$10 for each policy issued or renewed during such period of noncompliance.
3. Failure to pay the fine set forth in paragraph two shall constitute grounds for the revocation of the Companies' certificates of authority and for the recovery of the full fine.

Executed this _____ day of _____, 2004.

AMERICAN INTERNATIONAL INSURANCE COMPANY,
AIU INSURANCE COMPANY,
AMERICAN HOME ASSURANCE COMPANY.

By: _____

Printed Name: _____

Printed Corporate Title: _____

ORDER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. American International Insurance Company, AIU Insurance Company, and American Home Assurance Company are ordered to pay a fine within thirty days in the amount of \$82,660.

2. The payment liability and obligations of the Companies under this Order are joint and several.
3. The Companies' failure to pay the fine within the time limit set forth above shall result in the revocation of the Companies' Certificates of Authority and in the recovery of both the fine amount through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this ____ day of _____, 2004.

MIKE KREIDLER
Insurance Commissioner

By: _____
CHARLES D. BROWN
OIC Staff Attorney
Legal Affairs Division